

## REMARKS

The Examiner rejected claim 11 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the Examiner stated that the limitation "the complete certificate chain" has insufficient antecedent basis. The Examiner kindly provided a suggestion to resolve the rejection.

The Applicants have amended claim 11 as suggested by the Examiner.

The Examiner rejected claims 1 – 6, 8, and 11 – 20 under 35 U.S.C. § 103(a) as being unpatentable over "Digital Certificates – Applied Internet Security" to Feghhi *et al.* in view of U.S. Patent No. 6,363,477 to Fletcher *et al.* In that regard, the Examiner stated:

"Fletcher discloses a method for obtaining performance statistics of network applications comprising determining the time that the request was sent, determining the time that the response was received and determining the difference between the time that the request was sent and the time that the response was received (figures 5 and 10; col. 13, lines 5 – 18)."

The Examiner correctly states that Fletcher *et al.* discloses determining the difference between the time that a request was sent and the time that a response was received. However, both independent claims of the present application expressly require more than determining the time difference of Fletcher *et al.* For example, both independent claims of the application (claims 1 and 16) require determining the difference between the time that a request for certificate certification was sent and the time that a certificate was received.

As the Examiner is aware, in order to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. MPEP 2143.03 states:

"To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). 'All words in a claim must be considered in judging the patentability of that claim against the prior art.' *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)."

Fletcher *et al.* does not disclose determining the claimed time difference. Fletcher *et al.* does not disclose performing any action on either a certificate certification or a certificate. (The word “certificate” is not even contained in Fletcher *et al.*) Instead, Fletcher *et al.* discloses determining a time difference between a “network application request” and a “network application response.” See Figure 10 of Fletcher *et al.*

Applicants are not claiming any network performance monitoring method. Instead, Applicants are claiming a specific method that determines the time between two distinct events: the time that a request for certificate certification was sent and the time that a certificate was received. Feghhi *et al.* does not disclose determining any time differences. Fletcher *et al.* does not disclose determining the claimed time difference. Thus, combining Feghhi *et al.* and Fletcher *et al.* does not result in a combination that teaches all the claim limitations. Specifically, the combination of Feghhi *et al.* and Fletcher *et al.* does not disclose:

- 1) determining the time that a request for certificate certification was sent;
- 2) determining the time that a certificate was received; and
- 3) determining the difference between the time that the request for certificate certification was sent and that the certificate was received.

Applicants understand that “all words in a claim must be considered in judging the patentability of [a] claim against the prior art.” See MPEP 2143.03. Applicants respectfully submit that the Examiner did not consider the express limitations discussed above when judging the patentability of Applicants’ claims. In effect, the Examiner ignored those limitations. As a result, the Applicants believe that independent claims 1 and 16, together with their dependent claims, are allowable.

### CONCLUSION

It is submitted that the present application is presently in form for allowance. Such action is respectfully requested.

Respectfully submitted,

By Hoyt A. Fleming III  
Hoyt A. Fleming III  
Registration No. 41752

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<b>Address correspondence to:</b>  <input checked="" type="checkbox"/> <i>Customer Number or Bar Code Label</i>  <b>28422</b>	<b>or</b>  <input type="checkbox"/> <i>Correspondence Address Below</i>  Park, Vaughan & Fleming LLP P.O. Box 140678 Boise, ID 83714	<b>Direct telephone calls to:</b>  Hoyt A. Fleming III (208) 336-5237
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